

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of Tega Cay Water Service, Inc.
for Adjustment of Rates and Charges and
Modifications to Certain Terms and Conditions
for the Provision of Water and Sewer Service

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: 2009 - 473 - WS

(Please type or print)

Submitted by: Benjamin P. Mustian, Esquire

SC Bar Number: 68269

Address: Post Office Box 8416

Telephone: 803-252-3300

Columbia, SC 29202

Fax: 803-771-2410

Other: _____

Email: bmustian@willoughbyhoefer.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda expeditiously

☒ Other: _____

INDUSTRY (Check one)

NATURE OF ACTION (Check all that apply)

- ☐ Electric
☐ Electric/Gas
☐ Electric/Telecommunications
☐ Electric/Water
☐ Electric/Water/Telecom.
☐ Electric/Water/Sewer
☐ Gas
☐ Railroad
☐ Sewer
☐ Telecommunications
☐ Transportation
☐ Water
☒ Water/Sewer
☐ Administrative Matter
☐ Other: _____

- ☐ Affidavit
☐ Agreement
☐ Answer
☐ Appellate Review
☐ Application
☐ Brief
☒ Certificate
☐ Comments
☐ Complaint
☐ Consent Order
☐ Discovery
☒ Exhibit
☐ Expedited Consideration
☐ Interconnection Agreement
☐ Interconnection Amendment
☐ Late-Filed Exhibit

- ☒ Letter
☐ Memorandum
☐ Motion
☐ Objection
☐ Petition
☐ Petition for Reconsideration
☐ Petition for Rulemaking
☐ Petition for Rule to Show Cause
☐ Petition to Intervene
☐ Petition to Intervene Out of Time
☐ Prefiled Testimony
☐ Promotion
☐ Proposed Order
☐ Protest
☐ Publisher's Affidavit
☐ Report
☐ Request
☐ Request for Certification
☐ Request for Investigation
☐ Resale Agreement
☐ Resale Amendment
☐ Reservation Letter
☒ Response
☐ Response to Discovery
☐ Return to Petition
☐ Stipulation
☐ Subpoena
☐ Tariff
☐ Other: _____

Print Form

Reset Form

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY
JOHN M.S. HOEFER
RANDOLPH R. LOWELL
ELIZABETH ZECK*
BENJAMIN P. MUSTIAN
MICHAEL R. BURCHSTEAD
ANDREW J. MACLEOD

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

TRACEY C. GREEN
ALAN WILSON
SPECIAL COUNSEL

*ALSO ADMITTED IN TX

July 12, 2010

VIA ELECTRONIC FILING

The Honorable Jocelyn G. Boyd
Interim Chief Clerk/Administrator
Public Service Commission of South Carolina
Post Office Box 11649
Columbia, South Carolina 29211

RE: Application of Tega Cay Water Service, Inc. for adjustment of rates and charges and modifications to certain terms and conditions for the provision of water and sewer service. Docket No.: 2009-473-WS

Dear Ms. Boyd:

Enclosed for filing on behalf of Tega Cay Water Service, Inc. is one (1) copy of its **Reply to Response of City of Tega Cay to Applicant's Motion in Limine** in the above-referenced matter.

By copy of this letter, I am serving a copy of these documents upon all parties of record and enclose a Certificate of Service to that effect.

If you have any questions or if you need any additional information, please do not hesitate to contact me.

Sincerely,

WILLOUGHBY & HOEFER, P.A.

s/Benjamin P. Mustian

Benjamin P. Mustian

BPM/cf
Enclosures

The Honorable Jocelyn G. Boyd

July 12, 2010

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cc: Jeffrey M. Nelson, Esquire
James E. Sheedy, Esquire
Susan E. Driscoll, Esquire

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-473-WS

IN RE:

Application of Tega Cay Water
Service, Inc. for adjustment of
rates and charges and modifications to
certain terms and conditions for the
provision of water and sewer service.

**REPLY TO RESPONSE OF CITY OF
TEGA CAY TO APPLICANT'S MOTION
IN LIMINE**

Pursuant to Public Service Commission of South Carolina ("Commission") Regulation 103-829.A and other applicable statutes, rules and regulations, Tega Cay Water Service, Inc. ("TCWS" or the "Company") herein replies to the Response of the City of Tega Cay ("City") to TCWS's Motion in Limine and would respectfully show as follows:

1. Mr. Hartman's Surrebuttal is Improper.

The City asserts that it is proper to provide surrebuttal testimony of its witness, Gerald C. Hartman, which adopts the return on common equity recommended by ORS witness Douglas Carlisle, inasmuch as TCWS witness Steven M. Lubertoizzi "addresses clearly an adjusted return on common equity." Response at 3, fn. 2. The City's response is misleading. Mr. Lubertoizzi does not sponsor or recommend any particular return on common equity; rather, he only states the resulting return based upon the adjustments set forth in his testimony and the limitations established by the rates noticed in the Company's application. To the extent that Mr. Hartman disagreed with Mr. Lubertoizzi's calculation of the fallout return, surrebuttal testimony on this point may have been appropriate. By abandoning his previous recommendation of using the Florida formula for determining an appropriate return and, essentially, advancing ORS's stated

position, the City inappropriately offers testimony which does not contest any issue raised by TCWS in rebuttal. As asserted more fully in TCWS's Motion in Limine, Mr. Hartman's testimony in this regard should, therefore, be precluded from introduction into the record.

Furthermore, in its response, the City states that Mr. Hartman's "CV demonstrates in detail that Mr. Hartman is qualified as an expert on the financial evaluations of utilities." Response at 4. To the contrary, while Mr. Hartman's experience and knowledge may support his appearance as an expert in the valuation of utilities, nothing presented by the City demonstrates Mr. Hartman has any experience or knowledge to support his testimony as to an appropriate cost of capital for TCWS. "To be competent to testify as an expert, 'a witness must have acquired by reason of study or experience or both such knowledge and skill in a profession or science that he is better qualified than the jury to form an opinion on the particular subject of his testimony.'" Gooding v. St. Francis Xavier Hosp., 326 S.C. 248, 252-253, 487 S.E.2d 596, 598 (1997) quoting O'Tuel v. Villani, 318 S.C. 24, 28, 455 S.E.2d 698, 701 (Ct.App.1995). The City has not established any basis for Mr. Hartman to provide expert testimony on cost of capital issues; therefore, his testimony in this regard should similarly be excluded.

2. The City was Obligated to Provide Information in Discovery.

The City states that it "has produced copies of all documents sought by TCWS through its document requests and interrogatories." Response at 4. To the contrary, the City failed to provide TCWS full copies of the 1999 report upon which Mr. Hartman bases his opinion; rather, the City elected to only produce an "excerpt" which it deemed relevant.¹ As requested, TCWS

¹ Even this was an inadequate response given that the City consciously chose to omit relevant portions of the draft valuation study. Had the City produced the complete document, it

asked for all documents, not portions or excerpts of documents, upon which Mr. Hartman relied in formulating his testimony. The City did not produce a copy of the “excerpt” in response to discovery; rather it provided the excerpt as an exhibit to Mr. Hartman’s testimony. Because the discovery requests were “deemed to be of a continuing nature” such that the City was obligated to update its responses to fully respond to the requests set forth therein, TCWS reasonably believed that the City would fulfill its duties in this regard. However, when the City did not produce the complete document by the time it filed surrebuttal testimony of its witness in this proceeding, TCWS was left with no other recourse than to move to preclude those portions of Mr. Hartman’s testimony.

WHEREFORE, Tega Cay Water Service, Inc. respectfully requests that the Commission grant the Company’s Motion in Limine, preclude the introduction of those portions of Mr. Gerald C. Hartman’s direct and surrebuttal testimony identified in the Motion, and grant such other and further relief as is just and proper.

would have provided the attached page 3-37 (Reply Exhibit 1), which reflects that TCWS’s continuing program to address inflow and infiltration referred to in Mr. Haas’s rebuttal, and which is criticized in Mr. Hartman’s surrebuttal, is exactly the action recommended by Mr. Hartman be taken in 1999.

s/Benjamin P. Mustian

John M. S. Hoefer

Benjamin P. Mustian

Willoughby & Hoefer, P.A.

Post Office Box 8416

Columbia, South Carolina 29202-8416

803-252-3300

Attorneys for Tega Cay Water Service, Inc.

This 12th day of July, 2010.
Columbia, South Carolina

DRAFT

3.8 ENVIRONMENTAL SITE ASSESSMENT

HAI performed a Phase I Environmental Site Assessment in compliance with the scope and instructions of ASTM Practice E-1527 at the Tega Cay Water System's WWTP No. 2, 3 and 4 sites in Tega Cay, South Carolina. This assessment revealed no recognized environmental conditions in connection with the properties.

3.9 SYSTEM COST REQUIREMENTS

In general the TCWS wastewater system is average condition. There are some deficiencies, deferred maintenance and capital improvements items to be addressed. A discussion of the particular types of cost requirements is discussed in Section 2.10.

The on-going I/I remediation program must be maintained to achieve compliance with permit limitations, reduce operating costs and recover lost treatment capacity. It is recommended to continue the program of cleaning, televising and repairing 10% of the collection system annually along with raising manholes to reduce inflow. Due to the configuration of the system much of the collection system is difficult to access which leads to a higher costs. Actual costs of the system work was not provided to HAI but it was mentioned during the site inspection that televising and cleaning cost could easily be three times as high as normal depending on the area. An annual amount of \$70,000 is estimated for additional I/I repair work which includes cleaning 14,000 feet of collection pipe, televising 7,000 feet of collection pipe, performing six spot repairs, raising 20 manholes. Over a typical 5 year CIP the total cost would be \$350,000.

Miscellaneous repairs to lift stations include:

- Patching cracks in 3 stations
- Replacing hatches in 4 stations
- Installing auxiliary power connections on 3 stations

The total cost to repair these items is estimated at \$18,000.

Identified cost requirements of WWTP No. 2 include blasting and repainting the top half of the treatment tank and replacing the top ring of the dechlorination basin with a water tight sealing material. The cost of these items is estimated at \$17,000.

Due to the low flows at WWTP no. 3 and its proximity to WWTP no. 4, it is recommended to connect the two facilities by redirecting the flow at the master lift station for WWTP no. 3 to no 4. In this way, blasting and repainting the old package unit can be avoided and the plant can be temporarily shutdown allowing for reduced operating costs in the system. Upgrading the existing lift station pumps and routing an eight inch force main would be required to connect the two WWTPs. The estimated cost for this tie-in is \$30,000.

Cost requirements identified at WWTP no. 4 include installing a permanent dechlorination system with an injection point at the discharge end of the reaeration basin. Another cost requirement is to install an automatic pH adjustment system. The system would consist of a metering pump shelter and chemical day tank. The total cost of these requirements is estimated at \$20,000.

The total cost requirements for the TCWS wastewater system is \$435,000.

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_____)

CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one (1) copy of the **Reply to Response of City of Tega Cay to Applicant's Motion in Limine** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Jeffrey M. Nelson, Esquire
Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 29211

James E. Sheedy, Esquire
Susan E. Driscoll, Esquire
Driscoll Sheedy, P.A.
11520 N. Community House Road, Suite 200
Charlotte, NC 28277

s/Nathan Dawson
Nathan Dawson

Columbia, South Carolina
This 12th day of July, 2010.